

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-360-S - ORDER NO. 2009-496

JULY 17, 2009

IN RE:	Happy Rabbit, LP on Behalf of Windridge Townhomes, Complainant, v Alpine Utilities, Incorporated, Respondent))))	ORDER RULING ON MOTION TO DISMISS AND PETITION FOR CLARIFICATION
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This matter comes before the Public Service Commission of South Carolina (“Commission”) on Alpine Utilities, Incorporated’s (“Alpine”) Motion to Dismiss and the Office of Regulatory Staff’s (“ORS”) recommendation for dismissal without prejudice. Happy Rabbit, LP on behalf of Windridge Townhomes (“Happy Rabbit”) opposes.

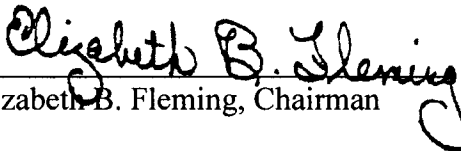
The crux of this case is the interpretation of 27-33-50 of the South Carolina Landlord/Tenant Act, even in regard to the proper application of Commission Regulation 103-533(3). While this Commission does not concede that it is without jurisdiction to address the issues raised by Happy Rabbit, the Office of Regulatory Staff’s argument regarding judicial economy is a sound one. Certainly, the circuit courts of the state have jurisdiction to interpret this statute, and such a case is currently pending in the circuit court. Resolution of that case could resolve the matters in dispute between the parties. Even if it does not, at the very least, a ruling by the circuit court regarding its interpretation of 27-33-50 would be of assistance to this Commission in determining issues currently in the docket before it, including its jurisdiction over the complaint filed

here. Therefore, this Commission exercises its discretion for purposes of judicial economy, and dismisses the case without prejudice during the pendency of the circuit court case. If necessary, the Commission will subsequently entertain any request for the filing of new pleadings regarding any unresolved issues for which it is claimed to have jurisdiction.


Subsequent to this Commission's issuance of its April 22, 2009, Directive setting out the above ruling, Happy Rabbit filed a Petition for Clarification/Alternative Relief. In its Petition for Clarification, Happy Rabbit requests that the Commission Order in this matter declare that all discovery and pleadings filed by both parties be preserved for use "when the Docket is reactivated." We deny this request. The Happy Rabbit/Carolyn L. Cook matters have been dismissed without prejudice – not held in abeyance. As recognized in our Directive, a case is currently pending in the circuit court, resolution of which could resolve the matters in dispute between the parties. It is far from a certainty that this case will need to come back to the Commission, and if it does, there is no way to know now what issues may be required to be addressed. Only if necessary, we have said we would subsequently entertain any request for the filing of new pleadings regarding any unresolved issues for which this Commission is claimed to have jurisdiction. If the parties determine that discovery that has been exchanged between the parties is relevant to any issues that may in the future arise before us, the Commission will entertain any motions the parties may have at that time regarding recognition and preservation of the discovery provided in this present case.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)